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7 UNITED STATES DISTRICT COURT  
8 NORTHERN DISTRICT OF CALIFORNIA  
9

10 HANNAH HENRY, ) CASE NO.  
11 )  
12 Plaintiff ) COMPLAINT FOR BREACH OF IDEA  
13 v. ) AGREEMENT AND FOR ENFORCEMENT  
14 ) ENFORCEMENT OF AGREEMENT  
15 NAPA VALLEY UNIFIED )  
SCHOOL DISTRICT, a )  
Local Educational )  
Agency )  
16 Defendant. )  
17

Plaintiff HANNAH HENRY alleges as follows:

**JURISDICTION AND VENUE**

1. This Court has original jurisdiction of this  
action under 28 U.S.C. § 1331 because it arises under the  
Individuals with Disabilities Education Act (IDEA)  
20 U.S.C. § 1400 et seq. This is an action for payment to  
the parent of a student with a disability for the  
attorney's fees she incurred in an administrative due  
process hearing held through the California Office of  
Administrative Hearings ("OAH"), OAH Case No. 2015120812/  
2016010051 and which were to have been paid pursuant to a  
settlement agreement entered into by the parties.

Jurisdiction is conferred by 28 U.S.C. § 1343.

2       2.   Venue is proper in the Northern District of  
3 California under 28 U.S.C. § 1331(b) because Plaintiff and  
4 Defendant are located in this district and because the  
5 claims arose in this district.

6       3. Plaintiffs have exhausted their administrative  
7 remedies through settlement of OAH Case No. 2015120812/  
8 2016010051.

## THE PARTIES

10       4. Plaintiff HANNAH HENRY is the mother of H.T., a  
11 minor student with a disability who is eligible for  
special education services pursuant to the IDEA.

13       5. Defendant NAPA VALLEY UNIFIED SCHOOL DISTRICT  
14 ("District") is, and at all times herein mentioned was, a  
15 school district duly organized and existing under the  
16 laws of the State of California as a local educational  
17 agency ("LEA"). At all times relevant to this matter,  
18 the District has had sole responsibility for the  
19 provision of a free and appropriate public education  
20 ("FAPE") to H.T., and has had the duty to comply with all  
mandates of IDEA and with State and federal law.

## **COMPLAINT**

22       6. On November 18, 2015, the District filed a due  
23 process complaint against H.T., alleging that his parent  
24 was refusing to consent to its offer of FAPE.

25       7. On December 29, 2015, Hannah Henry filed a due  
26 process administrative hearing complaint against the Napa  
27 Valley Unified School District (hereinafter, "District").  
28 That complaint alleged violations of IDEA and State law

1 that denied her son, H.T., a free and appropriate public  
2 education or "FAPE."

3       8. Plaintiff filed an Amended Complaint on or about  
4 February 16, 2016, adding issues which alleged further  
5 violations of IDEA and denials of FAPE by the District.

6       9. The parties met to discuss the pending complaints  
7 and, on April 4, 2016, entered into a full and complete  
8 settlement of the issues raised by their respective due  
9 process complaints.

10      10. One term of that agreement stated that

11             District agrees to reimburse reasonable  
12 attorney's fees in an amount not to  
13 exceed eighteen thousand dollars (\$18,000)  
14 for attorney fees related to *Napa Valley*  
*Unified School District v. Parent on*  
*Behalf of Student and Parent on Behalf*  
*of Student v. Napa Valley Unified School*  
*District*, OAH Consolidated Case No. 2016010051.

15       The terms of the settlement agreement called for  
16 payment to Plaintiff's attorney "within forty-five (45)  
17 days of District's receipt of an itemized statement of  
18 attorney's fees and services" from the attorney. As a  
19 condition to payment, Plaintiff was to provide an itemized  
20 billing statement of attorney's fees to District.

21       11. The agreement required that District's Board  
22 approve the settlement. Shortly after the agreement was  
23 signed, the District's Board approved the settlement.

24       12. On April 26, 2016, counsel for Plaintiff sent to  
25 District a letter and Billing Statement. The Billing  
26 Statement provided was intentionally "cut off" at the  
27 point that the hours and rate totaled \$18,000.

28       13. District did not respond in any way to the letter

1 or Billing Statement provided to District until July 7,  
2 2016, when a District administrator provided a check  
3 bearing a date of April 27, 2016 in the amount of \$15,200.  
4 The administrator, an assistant superintendent, claimed  
5 that the reasonable fees to be paid for Plaintiff's  
6 services was only \$15,200. In support of his position, he  
7 claimed that the rate charged by counsel was too high and  
8 that a lower rate, \$450 per hour, was "reasonable." The  
9 administrator also rejected the travel expenses charged by  
10 counsel, claiming that they should only be billed at one-  
11 half the \$450 rate he had determined to be a "reasonable"  
12 rate.

13 14. Plaintiff's counsel wrote to the District  
14 superintendent, noting the delay of payment and providing  
15 additional pages of her Billing Statement which had been  
16 previously intentionally omitted. The new pages added  
17 several hours of attorney time to the prior statement;  
18 the total fees under the full statement was 50.65. Even  
19 at the District's \$450 rate, the total fees incurred by  
20 Plaintiff in relation to the underlying OAH cases was  
21 \$22,792.50. Plaintiff's counsel had not included any  
22 costs of travel, i.e., airplane and car rental, and also  
23 provided those with her complete Billing Statement to the  
District.

24 15. Plaintiff's counsel asked the District and its  
25 superintendent to honor the agreement it had signed and to  
26 issue the payment due counsel within one week. By letter  
27 provided on July 7, 2016, Plaintiff sought to resolve the  
28 issue of remaining attorney's fees prior to filing a

1 || complaint.

2       16. As of the date of the filing of this complaint,  
3 District has failed to make full payment to Plaintiff  
4 for her incurred attorney's fees as agreed to in the  
5 April 4, 2016 Settlement and Release Agreement.

## FIRST CAUSE OF ACTION

FOR PAYMENT OF PLAINTIFFS' REASONABLE ATTORNEY'S FEES AS AGREED TO BY THE PARTIES ON APRIL 4, 2016.

9       17. Plaintiff incorporates by reference each and  
10 every allegation of Paragraphs 1 through 16 of the  
11 Complaint as though fully set forth herein.

18. Plaintiff has incurred substantial attorney's fees in the underlying IDEA due process matters and, through a written settlement, obtained payment of much of those fees by the District. The District has rejected the rate requested by Plaintiff's counsel and, instead, has unilaterally determined that \$450 per hour is a just and reasonable rate for Plaintiff's counsel. District has wrongly (and contrary to Ninth Circuit authority) determined that travel expenses are to be paid at one half counsel's "reasonable" rate.

19. District has failed to consider the full billing statement provided by counsel after District disputed (and "determined") counsel's customary rate. Despite having been provided with a full and complete Billing Statement by Plaintiff's counsel, District has failed to pay the full amount of Plaintiff's attorney's fees it agreed to pay on April 4, 2016.

28 20. Plaintiffs' attorneys' fees and costs are both

1 reasonable and within the range of services for the  
2 services provided to Plaintiff, whether at her customary  
3 rate or at the rate "determined" by District and support  
4 a payment of the full amount contemplated by the parties'  
5 agreement of April 4, 2016.

6 **PRAYER FOR RELIEF**

7 WHEREFORE, Plaintiffs pray for relief as follows:

- 8 1. For an order that District has failed to  
9 comply with the Settlement and Release  
10 Agreement its agent signed on April 4, 2016  
11 and which its Board approved to pay to  
12 Plaintiff's counsel up to \$18,000;
- 13 2. That Plaintiff's counsel must be provided  
14 with a check for the remaining funds due  
15 under the Settlement and Release Agreement  
16 within seven business days;
- 17 3. For payment of Plaintiff's reasonable  
18 attorney's fees and costs for the  
19 prosecution of this matter;
- 20 4. For such further and additional relief as  
the Court may deem just and proper.

21 Dated: July 15, 2016

22 By: *Tania L. Whiteleather* \_\_\_\_\_  
23 TANIA L. WHITELEATHER  
24 Attorney for Plaintiff